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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/543,949

04/06/2000

Grover John Manderfield, Jr

P99,1996

7906

26263

7590

12/18/2002

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/543,949

Applicant(s)

MANDERFIELD, JR, GROVER  
JOHN

Examiner

Niki M. Eloshway

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-33 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 24-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on September 4, 2002 has been entered.

### ***Election/Restrictions***

2. Applicant's election without traverse of Group I (a plastic container) in Paper No. 4 is acknowledged.

3. Claims 21-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 4.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (~~pre~~-AIPA 35 U.S.C. 102(c)).

5. Claims 1, 3, 17, 25, 26 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (U.S. 5,215,794). Johnson teaches a blow molded bowl, shown in figure 2. Col. 2 lines 19-41, discuss that the bowl is blow molded. The upper rim is shown above handle 15 and the side wall is element 16.

6. Claims 1, 3, 16, 17, 25, 31 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Kester (U.S. 6,129,803). Kester teaches a blow molded bowl, shown in figure 3. Col. 2 lines 32-39 discuss that the bowl is blow molded. The upper rim is shown at lead line 18' and the side wall is shown at lead line 22.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 4-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kester in view of Cheng (U.S. 5,549,210).

Regarding claims 2, 4-12 and 15, Kester discloses the claimed invention except for the plurality of feet at the bottom of the container. Cheng teaches that it is known to provide a container with a plurality of feet at the bottom (see figures 1-6). It would have been obvious to one having ordinary

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skill in the art at the time the invention was made to provide the container of Kester with the plurality of feet of Cheng, in order to strengthen the bottom wall of the container.

Regarding claims 13 and 14, Kester discloses the claimed invention except for a lid being rotatably secured to the container. Cheng teaches that it is known to provide a container with a closure which is rotatably secured thereto (see figures 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Kester with a lid being rotatably secured to the container, in order to seal the contents of the container within the container.

9. Claims 18 , 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kester in view of Valyi (U.S. 5,939,153). Kester discloses the claimed invention except for the container being multi-layered. Valyi teaches that it is known to make a container of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Kester with the container being made of multi-layered plastic, as taught by Valyi, in order to increase the strength of the container.

10. Claims 26-29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kester. Kester discloses the claimed invention except for the diameter being larger than the height of the bowl. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Kester with the diameter being larger than the height, in order to allow the container to be stored in areas with limited vertical space while maintaining the capacity of the container, and since a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

11. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kester, as applied to claim 26 above, and further in view of Valyi (U.S. 5,939,153). The modified invention of Kester discloses the claimed invention except for the container being multi-layered. Valyi teaches that it is known to make a container of plastic. It would have been obvious to one having ordinary skill in the

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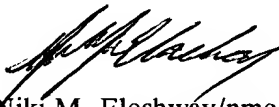
art at the time the invention was made to provide the modified container of Kester with the container being made of multi-layered plastic, as taught by Valyi, in order to increase the strength of the container.

*Conclusion*

12. **THIS ACTION IS MADE NON-FINAL.**

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.

  
Niki M. Eloshway/nme  
Patent Examiner  
December 13, 2002